

HEIRS OF PHILIP LIGHTFOOT.

[To accompany bill H. R. No. 733.]

JANUARY 17, 1857.—Ordered to be printed.

Mr. GARNETT, from the Committee on Revolutionary Claims, made the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Philip Lightfoot, have had the same under consideration, and report :

They find that an able and elaborate report was made upon this case at the second session of the twenty-fifth Congress. Your committee have again investigated the case, and see no reason to depart from the said former report, and therefore make it a part of this report.

Mr. TALIAFERRO, from the Committee on Revolutionary Claims, made the following report:

The Committee on Revolutionary Claims, to whom the petition of Philip Lightfoot was referred, report :

That the petitioner claims, as only son and sole heir-at-law of Philip Lightfoot, deceased, the commutation pay due to his said father for his services as a lieutenant in the Virginia line on continental establishment in the army of the revolution. Diligent inquiry has been made at all the departments here and at Richmond, and no record evidence has been found to show that Philip Lightfoot was an officer. It does appear, that on the 11th of July, 1835, Governor Tazewell allowed land bounty to Philip Lightfoot, as a lieutenant in the continental line, for three years' service. (See the certificate of the register of the land office at Richmond, Virginia.) This allowance was made by Governor Tazewell, on the evidence of two highly respectable and intelligent officers in the continental regiment of artillery commanded by Colonel Charles Harrison, to wit: Judge Francis T. Brooke, and the late Colonel Edmund Brooke—both in service to the end of the war, and both have received commutation pay and land bounty from the United States. By the testimony of these officers, it is proven

that Philip Lightfoot, father of the petitioner, was a lieutenant in Harrison's regiment of artillery on continental establishment; that he served in the campaign of 1781, in the army commanded by Gen. Lafayette; that he was in actual service in July, 1781, and at the siege of York; that in the summer of 1781, about July, nearly all the regular soldiers attached to the portions of Harrison's regiment then in Virginia were marched to the south, to join the army under Gen. Greene; that nearly all the junior officers in Harrison's regiment were, by the foregoing detachment of the men, left in Virginia without regular command; that, to supply this, militia draughts and recruits were placed under their command, to aid in repelling the then invasion of Virginia; that after the siege of York these militia draughts and recruits were discharged, and the officers were again without men to command, and so remained to the end of the war. Judge Brooke says he knew Philip Lightfoot well; that he was wealthy, and did not regard pay; that he never heard of his resignation; that he considered him in the condition of five-sixths of the officers of that regiment—at home, having no troops to command, virtually in service, though not actually in the field. (For the foregoing statement of the evidence in this case, see the affidavits of Francis T. Brooke and Edmund Brooke, and a certificate of John Taliaferro.) In acting on these cases, the committee receive with great caution parol evidence, to show that the claimant was an officer in the continental service, and, as such, entitled to commutation pay. In all cases, record evidence, when attainable, is required to show—first, that the claimant was an officer; secondly, that his service was such as to entitle him to the pay claimed. There is no rule, however, so general in its application, as not to require necessary exceptions, in order to do justice; and it has generally been the practice to admit secondary evidence, when the best evidence is not in the possession of, or attainable by, the party claiming. As to the present case, there are circumstances arising out of the history of the then and past times, sufficient to create a strong presumption that the records as to Harrison's regiment, from the time Lightfoot joined it to the close of the war, never were very perfect, owing to the reduced and scattered condition of its officers during that period; and that, imperfect as those records were, nearly all of them have been destroyed and lost. It is under these circumstances the petitioner offers secondary evidence to show that he was a lieutenant in Charles Harrison's regiment of artillery, and the evidence offered is that of the two officers of the same regiment above referred to. The committee being satisfied by the evidence in the case, that Philip Lightfoot was a lieutenant in the continental regiment of artillery commanded by Charles Harrison; that he was, as such, in actual service in the campaign in Virginia to its close in 1781; and that subsequent to that time he became supernumerary to the close of the war, are of opinion that he was entitled to commutation pay, and report a bill.

Your committee also find that the late General William Madison, of Virginia, was also a lieutenant in the same artillery regiment with Lieutenant Lightfoot, and that their services and claims are precisely the same. This committee reported in favor of commutation and in-

roduced a bill in favor of General Madison. (See Revolutionary Claims, March 26, 1838, page 445.) Your committee would also refer to the *appendix* to House Report No. 436, 1st session 26th Congress; (Reps. Com. vol. 2,) April 24, 1840, page 131, (No. 24 and No. 4,) which reads as follows: "The regiment of artillery was to be augmented to ten companies, thus making room for the officers as at first constituted; or possibly it required new officers for the new company, which gave occasion for the appointment of Lieutenants Edward Brooke, *Philip Lightfoot*, and William Madison, in 1780."

Your committee report a bill, and recommend its passage.

THE SECRETARY OF THE ARMY
WASHINGTON, D. C.
JANUARY 1, 1918
SIR:
I have the honor to acknowledge the receipt of your letter of the 29th ultimo, in relation to the subject of the proposed amendment to the regulations governing the appointment of officers to the grade of Captain in the United States Army.

Very respectfully,
Your obedient servant,
THE SECRETARY OF THE ARMY

REPORT

The following report was submitted to the Secretary of the Army by the Adjutant General's Office, in response to the request of the Secretary of the Army, dated January 1, 1918, for a report on the proposed amendment to the regulations governing the appointment of officers to the grade of Captain in the United States Army.

The proposed amendment to the regulations governing the appointment of officers to the grade of Captain in the United States Army, as submitted by the Adjutant General's Office, is as follows: That the regulations governing the appointment of officers to the grade of Captain in the United States Army be amended so that the appointment of officers to the grade of Captain in the United States Army shall be made by the Secretary of the Army, and not by the Adjutant General's Office.

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